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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91171281
Party	Plaintiff PomWonderful LLC
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Submission	Motion to Suspend for Settlement Discussions
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Date	02/16/2011
Attachments	Consented Motion to Suspend For Settlement 2-16-2011.pdf ( 4 pages )(769762 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PomWonderful LLC	)	Opposition (Parent) No.: 91171281
	)	
Opposer,	)	
	)	
v.	)	<b>CONSENT MOTION FOR SUSPENSION OF PROCEEDINGS FOR SETTLEMENT</b>
	)	
Jarrow Formulas, Inc.,	)	Marks and Related (Consolidated) Proceedings:
	)	Opp. No. 91171281 (Parent) re POMAMAZING
	)	Opp. No. 91191283 re POME GREAT
Applicant.	)	Opp. No. 91171284 re POMESYNERGY
	)	Opp. No. 91173117 re POMOPTIMIZER
	)	Opp. No. 91173118 re POMGUARD
	)	Opp. No. 91186414 re POMEZOTIC
	)	Opp. No. 91191995 re PRICKLYPOM
	)	Opp. No. 91194226 re POM and POM

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Opposer PomWonderful LLC (“Pom”), with the consent of Jarrow Formulas, Inc. (“Jarrow”), hereby moves to suspend this consolidated proceeding by 180 days. This suspension is requested solely for purposes of focusing the parties’ time, energy and resources to settling this matter and not for purposes of delay.

In compliance with the Board’s Order of December 7, 2010 which required a detailed report on the progress of settlement discussions if the parties requested a further extension or suspension, the Parties hereby advise the Board as follows.

Since the parties last requested an extension of time on November 24, 2010, counsel for both parties have had multiple conversations and email communications in order to find a mutually agreeable resolution to this case. The issues between the Parties in this proceeding are particularly complicated, however, because this proceeding involves (a) multiple trademark applications applied for and owned by both Pom and Jarrow; (b) actual use in commerce of many of the marks at issue by both Pom and Jarrow; and (c) a number of related opposition

proceedings in Canada involving similar issues, some of the same marks, actual use in commerce of some of the marks, and where a third-party is also involved.

During the pendency of this case, the Parties have been attempting to resolve both the U.S. issues and the Canadian issues in order to reach a global settlement. Towards that effort, on January 14, 2011, Pom's counsel was in Montreal, Quebec to discuss the progress made toward settlement with Pom's Canadian counsel, the third party and its counsel, in an attempt to find a mutually agreeable resolution which could result in a global settlement.

In preparation for the Montreal meeting and since that time, Pom's counsel and Jarrow's counsel have diligently worked toward finding a resolution that would satisfy both of their clients – through multiple phone conferences, lengthy email exchanges and multiple conversations with their clients. Counsel's efforts have, thus far, been fruitful as counsel have recently exchanged a mutually agreed (by counsel) "bullet point list" of possible terms for settling the issues in the U.S., including the instant proceeding. Although the Board requested a recitation of the issues that have been resolved and those that remain to be resolved, Counsel cannot disclose the current proposal as it has been deemed confidential by the Parties and if disclosure were required it would be counter-productive to settlement. However, each counsel has agreed to take to this "bullet point list" of terms to their respective clients as a potential "settlement in principle" and some early meetings with their clients have taken place at this point. Because of the travel schedules of both clients, meaningful dialogue on these points has taken some time. Counsel can disclose, however, that the Parties have now recognized that the issues in Canada may need to be resolved separately.

Therefore, at this time, the Parties' time, energy and resources is better spent resolving the U.S. issues and not tending to the many discovery issues that would be raised should this proceeding not be suspended. In order to build in time for drafting and revising a final settlement

agreement, should an agreement in principle be reached, counsel requests the instant proceeding be suspended for 180 days to allow time for this process to take place.

Counsel for Pom, Danielle M. Criona, has discussed this Motion with counsel for Jarrow Formulas, Inc., Mark D. Giarratana, and Jarrow Formulas, Inc. consents to this Motion.

Respectfully Submitted,

Date: February 16, 2011

PomWonderful LLC

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**CERTIFICATE OF SERVICE**

I, Danielle Criona, herby certify that a copy of **CONSENT MOTION FOR  
SUSPENSION OF PROCEEDINGS FOR SETTLEMENT** has been served upon attorneys  
for Opposer via email, as agreed to by the parties:

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Date: February 16, 2011

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